

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 511 - HB 1050

March 13, 2017

SUMMARY OF ORIGINAL BILL: Establishes that it is a Class C misdemeanor offense for a person to use a telecommunications service or interconnected VoIP service to knowingly cause any caller identification service to transmit misleading or inaccurate caller identification to a subscriber with the intent to defraud or cause harm to another person or to wrongfully obtain anything of value. Any person aggrieved as a result of such offense may bring an action to enjoin further violations, seek injunctive relief, and seek recovery of actual damages and actual expenses incurred, including court costs and attorney's fees against the defendant. If a defendant is found to have intentionally violated or to have engaged in a pattern and practice of violations, a court may award three times the actual damages sustained. Establishes that no cause of action may be brought against a provider for any violation of the provisions of this bill unless such violation resulted from the provider's gross negligence or intentional wrongdoing.

Establishes that it is an unfair or deceptive practice affecting the conduct of any trade or commerce to knowingly violate any provision of the Anti-Phishing Act of 2006. Any person that knowingly violates a provision of the Anti-Phishing Act of 2006 commits a Class A misdemeanor offense.

Authorizes the Office of the Attorney General and Reporter (AG) to bring legal action against a person who violates the provisions of this bill and to enjoin further violations and to recover a civil penalty of up to \$10,000 per violation. Any revenue collected as a result of such violation shall be paid into the General Fund. Any party prevailing pursuant to an action brought as a result of the provisions of this bill is entitled to attorney's fees, court costs, and expenses; provided, no courts costs shall be taxed against the AG as a result of such actions.

The provisions of this bill do not prohibit or restrict the following: blocking the capability of a caller identification service to transmit caller identification information (subject to Tenn. Code Ann. § 65-4-403); any authorized law enforcement activity; any lawfully authorized investigative, protective, or intelligence activity of the United States (U.S.) or U.S. intelligence agency, the state or any political subdivision of this state, or any other state or political subdivision of that state; a court order that specifically authorizes the use of caller identification manipulation; or the right of the AG to bring a civil action to enforce the federal Truth in Caller ID Act of 2009.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

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IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004853): Adds language to the bill, specifically proposed section § 47-18-2302, clarifying that such section does not apply to a provider unless the provider acts with the intent to assist, aid, or abet, in the commission or concealment of any person planning or causing a caller identification service to transmit misleading or inaccurate caller identification information to a subscriber while the person has the intent to defraud, cause harm to another person, or wrongfully obtain anything of value.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to the federal Caller ID Act of 2009, the Federal Communications Commission currently prohibits any person or entity from transmitting misleading or inaccurate caller ID information with the intent to defraud, cause harm, or to wrongly obtain anything of value.
- Authorizing the AG to bring legal action against anyone in violation of the provisions of this bill as amended may result in an increase in the number of cases handled by the AG.
- Based on information provided by the AG, any additional cases can be handled utilizing existing staff during normal work hours.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumption for the bill as amended:

- Passage of the regulatory provisions of this bill as amended is not expected to have any significant impact on commerce or jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb